

40 CROSSWAYS PARK DRIVE  
WOODBURY, NEW YORK 11797  
PH: 516.747.1136 | FAX: 516.747.0382  
WWW.BFSLAWFIRM.COM

May 28, 2015

BY ELECTRONIC FILING

Hon. P. Kevin Castel  
United States District Judge  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street  
New York, New York 10007-1312

Re: Navana Logistics Limited v. TW Logistics, LLC, et al.  
Civil Action No. 15-cv-856 (PKC)

Dear Judge Castel:

We represent defendants TW Logistics, LLC ("TWL") and Shlomo Greenberg ("Greenberg") in the above-referenced action. We respectfully submit this letter in accordance with Rule 2(A) of Your Honor's Individual Practices to advise the Court of these defendants' intention to move for judgment on the pleadings to Fed. R. Civ. P. 12(c), and 17(a) as plaintiff is not a real party in interest and lacks standing to assert its purported claims against defendants upon which relief can be granted.

As Your Honor may recall, during the April 23, 2015 initial conference, counsel advised that, in accordance with our April 21, 2015 letter filed with the Court (Docket Entry Number 27), defendants TWL and Greenberg intended to bring a motion to dismiss the complaint. Counsel for co-defendant Israel Discount Bank of New York likewise filed a letter dated April 17, 2015 (Docket Entry Number 25) outlining its intention and grounds for moving to dismiss the complaint.

In response, Your Honor directed that the plaintiff file an amended complaint to "address the issues outlined in the defendants' assertions in the April 16, 2015, April 17, 2015 and April 21, 2015 letters" filed in this action, and embodied this direction in its April 23, 2015 Order Following Pretrial Conference (Docket Entry 29).

On May 19, 2015 plaintiff filed its "Second Amended Complaint" (Docket Entry Number 31). We submit that the Second Amended Complaint fails to address the issues outlined in defendants' letters. Indeed, there are merely two additional sentences added to the Second Amended Complaint, *to wit*:

HEATH S. BERGER\*  
GARY C. FISCHOFF\*\*  
STEVEN E. SHUMER

LAURIE SAYEVICH HORZ  
BRIAN P. SCHECHTER  
GABRIELLE D. WASENIUS

OF COUNSEL:

STUART M. STEINBERG  
FRANCIS G. FINEO  
LAWRENCE KATZ  
MATTHEW KREINCES  
BRIAN NOVAK

ALSO ADMITTED IN DISTRICT OF COLUMBIA\*  
ALSO ADMITTED IN NEW JERSEY\*\*

Hon. P. Kevin Castel  
May 28, 2015  
Page 2

- (1) Paragraph 20: "Plaintiff stands in the shoes of the suppliers as to the letters of credit referred to in the Complaint. A list of the JDE shipment letters of credit with details thereof is attached hereto as Exhibit "A"; and
- (2) Paragraph 53: As a result of the wrongful dishonor of the letters of credit by Defendant, Israel Discount Bank, Plaintiff has been damaged, "since the suppliers of the goods in Bangladesh, who are the beneficiaries of the letters of credit issued by Israel Discount Bank upon application of its customer, JDE, are looking to Plaintiff for payment for the goods that they did not receive from Israel Discount Bank via the letters of credit."

See, Second Amended Complaint, Docket Entry Number 31. These additions to the complaint are conclusory and lack any factual or legal basis to support plaintiff's claim that it is the assignee of any claims of the Bangladesh suppliers or that plaintiff has been injured by any of the defendants.

In short, the plaintiff has not only continued to fail to properly allege its standing, but it has likewise failed to address the other pleading defects outlined in defendants' pre-motion letters. As a result, the defendants seek permission to move for judgment on the pleadings and to dismiss the Second Amended Complaint for the reasons outlined in our April 21, 2015 letter.

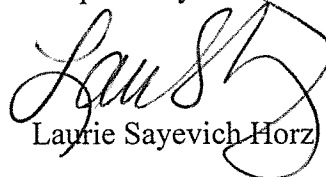
Proposed Briefing Schedule

Defendants respectfully suggest the following briefing schedule:

|                |   |
|----------------|---|
| June 26, 2015: | last day for defendants to file their moving papers |
| July 17, 2015: | last day for plaintiff to file opposition           |
| July 31, 2015: | last day for defendants' reply                      |

We thank the Court for its attention to this matter.

Respectfully submitted,

  
Laurie Sayevich Horz

cc: All counsel, via ECF